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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,888	08/03/2001	Brian Davidson	042933/302185	9821
826 7590 12/03/2008				
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
ELAHEE, MD S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
12/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/920,888

Applicant(s)

DAVIDSON ET AL.

Examiner

MD S. ELAHEE

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/03/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-640)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Withdrawn of Finality of Last Office action

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. This action is responsive to an amendment filed on 10/29/2007. Claims 7-10 and 12 are pending.

Response to Arguments

2. Applicant's arguments mailed on 07/11/2008 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

Drawings

3. The informal drawings of fig.1,3-7 are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

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Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBride et al. (U.S. 7,099,801) in view of Beerman, Jr. et al. (U.S. 6,084,952).

Regarding claims 7, 8, 10 and 12, with respect to fig.1-6, McBride teaches a system including a wireless Internet device [radio communication device] (fig.1; col.12, lines 54-55) and a server 109 in Fig.1 [i.e., object device] connected to a network, the wireless Internet device comprising:

a transmitter for transmitting a identity tag (col.5, lines 4-23, col.7, lines 19-35). However, McBride does not specifically teach that the wireless Internet device is portable and an identity tag indicative of the identity of the portable radio communication device. In other word, McBride does not specifically teach that a portable radio communication device and an identity tag indicative of the identity of the portable radio communication device. Beerman teaches a user operable PDA [i.e., portable radio communication device] (col.6, line 28) and an identity tag indicative of the identity of the portable radio communication device (fig.4; col.9, lines 25-31). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McBride to incorporate a portable radio communication device and an identity tag indicative of the identity of the portable radio communication device in McBride's invention in order to provide secured communication to a particular device.

McBride further teaches the server [i.e., object device] comprising a receiver, and a processor (fig.1, item 109). (Note: receiver and processor are inherent in the server.)

McBride further teaches in response to the receiver receiving an identity tag transmitted from the wireless Internet device, the processor being configured to use the identity tag to obtain address information via the network and authorize the distribution of information not otherwise addressed to any particular entity via the network to a practitioner Internet device 105 in Fig.1 [i.e., terminal] identified by the address information associated with the identity tag (col.7, lines 19-35, 46-67).

Claim 9 is rejected for the same reasons as discussed above with respect to claim 7. Furthermore, McBride teaches that the wireless Internet device [radio communication device] is inherently a passive device (fig.1).

8. Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Towell et al. (U.S. 6,647,411) in view of Beerman, Jr. et al. (U.S. 6,084,952).

Regarding claims 7, 8, 10 and 12, with respect to fig.1-4, 6 and 8, Towell teaches a system including a user device 120 in Fig.1A and a content provider 105 in Fig.1A [i.e., object device] connected to a network, the user device comprising:

a transmitter for transmitting an identity tag indicative of the identity of the portable radio communication device (col.7, lines 40-45). However, Towell does not specifically teach that the user device is a portable radio communication device. In other word, Towell does not specifically teach a portable radio communication device. Beerman teaches a user operable PDA [i.e., portable radio communication device] (col.6, line 28). Thus, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Towell to incorporate a portable radio communication device in Towell's invention in order to provide secured communication to a portable communication device.

Towell further teaches the content provider 105 in Fig.1A [i.e., object device] comprising a receiver, and a processor. (Note: receiver and processor are inherent in the server.)

Towell further teaches in response to the receiver receiving an identity tag transmitted from the wireless Internet device, the processor being configured to use the identity tag to obtain address information via the network and authorize the distribution of information not otherwise addressed to any particular entity via the network to a practitioner Internet device 105 in Fig.1 [i.e., terminal] identified by the address information associated with the identity tag (col.7, lines 40-51).

Claim 9 is rejected for the same reasons as discussed above with respect to claim 7. Furthermore, Towell teaches that the user device is inherently a passive device (fig.1A).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MD S ELAHEE/
MD SHAFIUL ALAM ELAHEE
Primary Examiner
Art Unit 2614
December 3, 2008